

Group III: Claims 18-36, drawn to a transgenic plant, seed, and plant produced from the seed, classified in class 800, subclass 278; and

Group IV: Claim 37, drawn to a method of transforming a plant cell, classified in class 435, subclass 468.

Applicants respectfully traverse the restriction requirement, and provisionally elect Group I (claims 1-5 and 8-11 drawn to SEQ ID NO: 1) for further prosecution.

Applicants submit that the complete examination of the application would be handled most expeditiously by treating all of the pending claims as a single entity. As Section 803 of the MPEP directs, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

Applicants submit that the restriction requirement is inappropriate. For example, Applicants contend that, at least, Group I and Group II should be examined simultaneously because they are related as polynucleotides comprising SEQ ID NO: 1. Accordingly, examination of Group I and II together would pose no undue burden to the Examiner. Furthermore, Applicants submit that restriction to a single nucleotide sequence is improper and Applicants believe no serious burden would result by the search and examination of at least ten nucleotide sequences. Applicants disagree that each nucleotide sequence in the application is necessarily a patentably distinct species, but provisionally elect the species of Group I (purified nucleic acid molecules represented by SEQ ID NO: 1) for further prosecution.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore should be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group I (claims 1-5 and 8-11 drawn to SEQ ID NO: 1).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (314) 694-3602.

Respectfully submitted,



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